



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2011

Mr. John F. Healy, Jr.
Fort Bend County District Attorney
301 Jackson
309 South Fourth Street, Suite 258
Richmond, Texas 77469

OR2011-06052

Dear Mr. Healy:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 416305.

The Fort Bend County District Attorney's Office (the "district attorney") received a request for information related to a specified investigation.¹ You claim portions of the requested information are excepted from disclosure under sections 552.130, 552.136, and 552.147 of the Government Code. You inform us, and provide documentation demonstrating, the district attorney notified the United States Postal Inspector (the "postal inspector") of the request for information and of its right to submit comments to this office stating why the requested information should not be released. *See* Gov't Code § 552.304 (providing that an interested third party may submit comments stating why information should or should not be released). We have received comments from the postal inspector. We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This office has repeatedly held that the transfer of confidential information between governmental agencies does not destroy the confidentiality of that information. Attorney General Opinions H-917 (1976), H-836 (1974), Open Records Decision Nos. 561

¹You state the district attorney received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex.2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

(1990), 414 (1984), 388 (1983), 272 (1981), 183 (1978). These opinions recognize the need to maintain an unrestricted flow of information between state agencies. In Open Records Decision No. 561, we considered whether the same rule applied regarding information deemed confidential by a federal agency. In that decision, we noted the general rule that section 552 of title 5 of the United States Code, the federal Freedom of Information Act ("FOIA"), applies only to federal agencies and does not apply to records held by state agencies. ORD 561 at 6. Further, we stated that information is not confidential when in the hands of a Texas agency simply because the same information is confidential in the hands of a federal agency. *Id.* However, in the interests of comity between state and federal authorities and to ensure the flow of information from federal agencies to Texas governmental bodies, we concluded that: "when information in the possession of a federal agency is 'deemed confidential' by federal law, such confidentiality is not destroyed by the sharing of the information with a governmental body in Texas. In such an instance, [section 552.101] requires a local government to respect the confidentiality imposed on the information by federal law." *Id.* at 7.

We understand the information at issue was provided to the district attorney by the postal inspector. The postal inspector informs this office that it considers some of the requested information confidential under the personal privacy provisions found in sections 552(b)(6), 552(b)(7)(c), 552(b)(7)(d), and 552(b)(7)(e) of title 5 of the United States Code. *See* 5 U.S.C. § 552(b)(6), (7)(c), (7)(d), (7)(e). Therefore, we conclude that the district attorney must withhold the information the postal inspector has marked under section 552.101 of the Government Code in conjunction with federal law.²

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130(a)(1), (2). We note section 552.130 does not apply to out-of-state motor vehicle record information. The district attorney must withhold the Texas motor vehicle record information under we have marked under section 552.130 of the Government Code. However, none of the remaining information contains motor vehicle record information issued by an agency of this state. Accordingly, the district attorney may not withhold any of the remaining information under section 552.130.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). We find the checking account number you have marked constitutes an access device number for purposes of section 552.136. Thus, the district attorney must withhold the checking account number you have marked under section 552.136 of the Government Code.

²As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

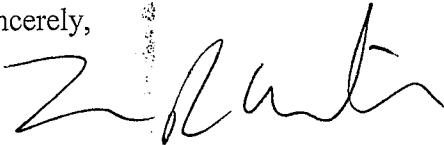
Section 552.147 of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act.³ *Id.* § 552.147(a). The district attorney may withhold the social security number in the remaining information under section 552.147 of the Government Code.

In summary, the district attorney must withhold the information the postal inspector has marked under section 552.101 of the Government Code in conjunction with federal law. The district attorney must withhold the Texas motor vehicle record information we have marked under we have marked under section 552.130 of the Government Code. The district attorney must withhold the checking account number you have marked under section 552.136 of the Government Code.⁴ The district attorney may withhold the social security number in the remaining information under section 552.147 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

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³We note section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

⁴We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license numbers and license plate numbers under section 552.130 of the Government Code and bank account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 416305

Enc. Submitted documents

c: Requestor
(w/o enclosures)